HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE G. BHAVANI PRASAD

WRIT APPEAL NO.207 OF 2006

Between:

Gandreti Premavathi, W/o Sri Ganesh,
Hindu, age 26 years, R/o. Modavalasa
Village, Denkada Mandal, Vizianagaram
District ... Appellant

and

The District Collector, Vizianagaram
and three others ... Respondents

:: JUDGMENT ::

Counsel for the appellant : Sri N. Siva Reddy

Counsel for respondent Nos.1 to 3 : Government Pleader for Civil Supplies

Counsel for respondent No.4 : None

Dated: 31-3-2006

Per G. Bhavani Prasad, J

This is an appeal for setting aside order dated 25-1-2006 passed by the learned Single Judge, whereby he dismissed the writ petition filed by the appellant for issuance of a mandamus to the respondents to appoint her as fair price shop dealer of Modavalasa Village, Denkada Mandal, Vizianagaram District.

The facts leading to the filing of present writ appeal are that by a notification in letter No.2550/2002 K, dated 04-10-2002, Revenue Divisional Officer, Vizianagaram (respondent No.3) invited applications from Open Category (Women) candidates for appointment as fair price shop dealer of Modavalasa Village, Denkada Mandal, Vizianagaram District. The appellant, respondent No.4 and Sri Gandreti Bangar Raju submitted their applications. The Mandal Revenue Officer forwarded their applications to respondent No.3. All of them appeared in the selection held on 25-10-2002. By his proceedings in Roc.No.2550/023, dated 07-11-2002, respondent No.2 disqualified the appellant and rejected her candidature mentioning that she failed X class; that her husband is presently Upa Sarpanch; that her father-in-law Sri Appanna was removed as fair price shop dealer in connection with a case under Section 6-A of the

Essential Commodities Act and that she was an 'Anganwadi' teacher as on the date of interview though she later resigned. The candidature of Sri G. Bangar Raju was rejected as the vacancy was reserved for woman category. As a consequence of this, the only candidate who remained in the field was respondent No.4 and she was appointed as fair price shop dealer.

The appellant challenged the appointment of respondent No.4 by filing an appeal before Joint Collector, Vizianagaram (respondent No.2) who dismissed the same vide his order in FPSAP No.25/02, G.8, dated 03-9-2003. The Joint Collector relied on the report of the Mandal Revenue Officer that the appellant's father-in-law

Sri Gandreti Appanna had suffered punishment under Section 6-A of the Essential Commodities Act, 1955 (for short 'the Act'), referred to G.O. Ms. No.198 F.C.S. & C.A. (C.S.IV) Department, dated

05-02-1996, and held that the appellant was not entitled to be considered for appointment as fair price shop dealer. Revision filed by the appellant was dismissed by District Collector, Vizianagaram (respondent No.1) vide his order dated 22-11-2003.

Undeterred by adverse orders passed by the authorities constituted under the A.P. State Public Distribution System Control Order, 2001 the appellant filed Writ Petition No.6055 of 2004 with the prayer that orders dated 7-11-2002, 3-9-2003 and 22-11-2003 may be quashed, the appointment of respondent No.4 as fair price shop dealer of Modavalasa Village, Denkada Mandal be declared illegal and a direction be issued for her appointment as fair price shop dealer because she was more meritorious than respondent No.4. She pleaded that she had resigned from the

post of 'Anganwadi' teacher much prior to the interview. She further pleaded that her father-in-law never worked as fair price shop dealer of her village or any other village and the allegation of his being removed from the dealership in a Section 6-A case is not correct. Still further, she pleaded that being a Scheduled Caste candidate, she was entitled to be preferred over respondent No.4, moreso because she had secured more marks.

In the counter filed by respondent No.3, it was averred that the writ petitioner has not produced order passed by the competent authority to accept her resignation and, therefore, she was not entitled to be considered for appointment as fair price shop dealer. It was further averred that the petitioner was rightly treated as disqualified because her father-in-law had been punished for committing an offence under Section 6-A of the Act.

The learned Single Judge referred to G.O.Ms.No.198 dated 6-2-1996 and dismissed the writ petition by observing that the petitioner was rightly treated as disqualified. In the opinion of the learned Single Judge, the punishment suffered by the petitioner's father-in-law was sufficient to disqualify her from being considered for appointment as fair price shop dealer.

Sri N. Siva Reddy, learned counsel for the appellant argued that orders dated 7-11-2002, 3-9-2003 and 22-11-2003 passed by respondents No.3, 2 and 1 respectively, as also the order passed by the learned Single Judge are liable to be set aside because the same are not based on the guidelines contained in G.O.Ms.No.198 dated 6-2-1996. He argued that the punishment awarded to the appellant's father-in-law cannot be made basis for rejecting her candidature and the authorities concerned gravely erred by appointing respondent No.4 despite the fact that the appellant was

more meritorious. Sri Reddy emphasised that the appellant had resigned from the post of 'Anganwadi' Teacher much before the date of interview and, therefore, she could not be treated ineligible for appointment as fair price shop dealer.

The learned Government Pleader supported the order under challenge and argued that the appellant has been rightly treated as disqualified from being considered for appointment as fair price shop dealer because her father-in-law had been punished under Section 6-A of the Act.

We have given our anxious consideration to the submissions of the learned counsel and carefully perused the record. The revised guidelines for selection and appointment, etc., of fair price shop dealers under Andhra Pradesh Scheduled Commodities (Regulation of Distribution by Card System) Order, 1973 are incorporated in G.O.Ms. No.198 F.C.S. and C.A. (C.S. IV) Department, dated 06-02-1996. Clauses 3, 4 and 10.10 of the revised guidelines, which have bearing on the decision of this appeal read as under:

> "**3. Verification of Antecedents:**
>
> The appointing authority shall verify the antecedents of the selected candidates through the records of their own offices. The appointing authority shall also get clearance report from the Mandal Revenue Officers concerned regarding punishment or involvement of the selected candidates in any case under various laws specified in para 5-9-0 (b) of G.O.Rt.No.714 F & A (CS-IV) Dept., dt. 16-6-83 or under any of the orders issued under the Essential Commodities Act, 1955 or in relation to the Essential Commodities, or her relationship with any business or ex-dealers or government employers etc.
>
> **4. Eligibility:**

Keeping in view the growing unemployment, only unemployee women or registered and development of women and children in rural areas groups or registered women's voluntary consumer organisations (which have only women as members) or women's thrift group like "Podupu Lakshmi", shall be eligible for appointment as Fair Price Shop dealers.

10. General:

...

10.10: The candidate should have no adverse antecedents such as criminal cases or any punishments under the Essential Commodities Act, 1955 or pendency of cases under Essential Commodities Act, 1955 or cancellation of licenses or punishments or pending charges under Legal Metrology Laws, Marketing Laws, Labour Laws etc., or bad conduct on record as a dealer or as an individual."

A conjoint reading of the above reproduced guidelines makes it clear that while making selection for appointment as fair price shop dealer, the appointing authority is required to verify the antecedents of selected candidates and also get clearance report from the Mandal Revenue Officer in regard to the punishment or involvement of the selected candidate in any case or under any order issued in exercise of the power conferred under the Act or her relationship with any business or ex-dealer or government employee. Clause 10.10 makes it clear that a candidate has to be treated ineligible if he or she is involved in a criminal case or any punishment has been imposed under the Act or licence granted earlier has been cancelled or proceedings are pending. The plain language of these guidelines makes it clear that adverse antecedents referred to therein are in respect of the candidate and

not any family member.

There is nothing in the said guideline to suggest the possibility of taking into consideration any adverse antecedents of any other person on the ground of relationship with the candidate. Clause 3 of the guidelines does not refer to the antecedents of all the relations of the candidate. It is true that the appellant's father-in-law was charged with the violation of Section 6-A of the Act because he was said to be running fair price shop on behalf of Smt.Longala Vimala Kumari, but no material has been brought on the record that he himself was a dealer. Therefore, the appellant cannot be penalised for the offence or misconduct, if any, committed by her father-in-law. In our opinion, the involvement of the appellant's father-in-law cannot be made a ground for disqualifying her from being considered for appointment as fair price shop dealer.

The eligibility criteria mentioned in Guideline No.4 of G.O. Ms. No.198 is limited the eligibility to unemployed women and the claim of the appellant that she resigned to the post of 'Anganwadi' teacher much prior to the date of interview and that she has no other employment, is not seriously in dispute. As per Guideline No.5 of G.O. Ms. No.198, the minimum general educational qualification is prescribed as a pass in VII class, which the appellant satisfies and she is admittedly within the age limit specified in Guideline No.6 of G.O.Ms.No.198. Her eligibility to compete for the appointment to the post falling under open competition woman category is not in question and she is a resident of the village concerned in tune with the Guideline No.8 of the G.O.Ms. No.198. As per Guideline No.10.1, only individuals holding public offices are rendered ineligible but not their spouses

and hence the appellant's husband being the Upa Sarpanch of the Village is no bar. While the appellant does not offend any of the guidelines of G.O.Ms. No.198, Guideline No.10.12 barring the applicant from running the fair price shop in benami through an agent, takes care of any possibility of the involvement of her father-in-law in running the fair price shop and the concerned authorities can immediately take consequential penal action as per rules in the event of any such contingency.

In view of the above, we hold that the decision of respondent No.3 to disqualify the appellant from being considered for appointment as fair price shop dealer is legally unsustainable and respondents No.2 and 1, as also the learned Single Judge, erroneously approved the action taken by respondent No.3.

As an offshoot of the above discussion, we allow the appeal and set aside the order of the learned Single Judge. As a sequel to this, orders dated 7-11-2002, 3-9-2003 and 22-11-2003 passed by respondents No.3, 2 and 1 respectively are also quashed. Appointment of respondent No.4 as fair price shop dealer of Modavalasa Village, Denkada Mandal is declared illegal and quashed. Respondents No.2 and 3 are directed to consider the appellant's case afresh along with that of respondent No.4 for the purpose of appointment as fair price shop dealer of Modavalasa Village, Denkada Mandal. If the appellant is found to be more meritorious than respondent No.4, then she shall be appointed as fair price shop dealer. Else, respondent No.4 shall be allowed to continue to operate as fair price shop dealer.

The aforementioned exercise shall be undertaken by respondents No.2 and 3 within two weeks of the receipt of copy of this order.

G. BHAVANI PRASAD, J

Date: 31-3-2006

G.S. SINGHVI, CJ

Svv / svs